

## **REMARKS**

### ***I. Response to Notice of Non-Compliant Amendment***

Please cancel the Preliminary Amendment that was submitted along with this application on December 31, 2003. Please enter for consideration the following Remarks pertaining to the claims of the application as filed on December 31, 2003, in response to the Office Action mailed March 11, 2003, as part of the prosecution of the parent application.

### ***II. Claim Rejections under 35 U.S.C. § 103***

In the parent application (Application No. 09/436,058), in the Office Action mailed March 11, 2003, the Examiner rejected claims 1-4, 7-8, 15, 17, and 31 as being unpatentable over U.S. Patent No. 5,857,309 ("the Cicha patent"), in view of U.S. Patent No. 4,680,163 ("the Blidschun patent"), and further in view of U.S. Patent No. 4,518,595 ("the Greene patent"). These rejected claims correspond to claims 50-58, respectively, of the present application.

#### ***A. The Cicha Patent in View of the Blidschun Patent and Further in View of the Greene Patent***

Relative to claim 1 of the parent application, claim 50 has been amended to recite:  
". . . the method comprising: spraying [[a]] an electrically charged photosensitizer onto the contaminated surface of a person-occupiable space, in an environment open to the person-occupiable space ~~the photosensitizer being electrically charged so that it is attracted to the contaminated surface~~; . . . ."

Applicants respectfully agree with the Examiner that the Cicha patent teaches the sterilization of container and spout assemblies using the application of hydrogen peroxide combined with irradiation in an ultraviolet station. Applicants also agree with the Examiner that the Blidschun patent discloses a process for sterilizing using an electrically charged sterilizing agent. Moreover, applicants agree with the Examiner that the Greene patent discloses a method of sterilizing hospital walls, floors, and work surfaces by spraying these surfaces with a sterilizing solution. However, neither Cicha, Blidschun, nor Greene teaches or suggests the use or application of spraying an “electrically charged” photosensitizer onto the contaminated surface of person-occupiable space, “in an environment open to the person-occupiable space”.

In particular, the Cicha patent expressly teaches away from disinfecting surfaces in a “person occupiable space, in an environment open to the person occupiable space” by teaching the application of a disinfecting solution, such as hydrogen peroxide, to contaminated surfaces (spout assemblies) at one station and then irradiating the surfaces with ultraviolet light at a subsequent station. The spout assemblies are transferred through these series of sterilization stations along a track. (Col. 3, lines 9-11). This entire system, including all of the sterilization stations, is preferably maintained in a generally sterile environment and may be surrounded by sidewalls defining a sterile chamber. (Col. 3, lines 58-63). Accordingly, the Chica patent does not teach disinfecting surfaces in a “person-occupiable space”, in an “environment open to the person-occupiable space.” Moreover, the Chica patent does not teach the application of an “electrically charged” photosensitizer to contaminated surfaces.

Neither the Blidschun patent nor the Greene patent teach illuminating the surfaces with

light to cause chemical reactions to decontaminate the surface. Moreover, Greene does not disclose the use of an “electrically charged” sterilizing agent. While the Blidschun patent does disclose the use of imparting an electrical charge on the sterilizing agent, the Blidschun patent does not teach disinfecting surfaces in a “person-occupiable space”, in an “environment open to the person-occupiable space”. Moreover, the Blidschun patent teaches away from the claimed invention, as the Blidschun reference requires the use of either a grounded concentric electrode (see Figure 1, reference numeral 13, and column 5, lines 13-33) or a grounded cavity that receives the surface (see Figure 2, reference numeral 13a, and column 5, lines 40-51). Both of these Blidschun requirements are inconsistent with the claimed invention and combining Blidschun with Chica would not result in the claimed invention.

Based upon the foregoing, Applicants respectfully submit that a prima facie case of obviousness to the invention “as a whole” at the time of the invention has not been made. Absent the use of hindsight to piece together the Cicha patent, the Blidschun patent and the Greene patent, there is no motivation or suggestion that the Cicha patent, the Blidschun patent, and the Greene patent should be combined in a manner that would result in the subject matter of the present invention “as a whole” and as defined in these claims. Accordingly, applicant respectfully requests that the Examiner withdraw the rejection of independent claim 1 (corresponding to claim 50 of the present application) and corresponding dependent claims.

### ***III. Conclusion***

Accordingly, Applicants respectfully submit that all of the independent and dependent claims are allowable over the prior art of record.

Inventor: CURRY et al.  
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All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. If the Examiner disagrees, he is invited to telephone the undersigned at the number provided so that an interview may be scheduled.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,



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By: Grant D. Kang, Esq. Reg. No. 37,651  
Husch & Eppenberger, LLC  
190 Carondelet Plaza  
St. Louis, MO 63105  
314-480-1640  
314-480-1505 FAX